

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 19-1117V

UNPUBLISHED

EVON JOHNSON,

Petitioner,

v.

SECRETARY OF HEALTH AND  
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: March 5, 2021

Special Processing Unit (SPU);  
Damages Decision Based on Proffer;  
Influenza (Flu) Vaccine; Shoulder  
Injury Related to Vaccine  
Administration (SIRVA)

*Jeffrey S. Pop, Jeffrey S. Pop & Associates, Beverly Hills, CA, for petitioner.*

*Sarah Christina Duncan, U.S. Department of Justice, Washington, DC, for respondent.*

### **DECISION AWARDING DAMAGES**<sup>1</sup>

On July 31, 2019, Evon Johnson filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*<sup>2</sup> (the “Vaccine Act”). Petitioner alleges that she suffered a shoulder injury related to vaccine administration (“SIRVA”) as a result of an influenza vaccine administered on November 5, 2018. Petition at 1. Petitioner further alleges that the vaccination was administered within the United States, that she suffered the effects of her injury for more than six months, and that she has never received any compensation or filed a civil action related to her injury. Petition at 1, 4. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On January 25, 2021, a ruling on entitlement was issued, finding Petitioner entitled to compensation for a SIRVA. On March 4, 2021, Respondent filed a proffer on award of

<sup>1</sup> Because this unpublished decision contains a reasoned explanation for the action in this case, I am required to post it on the United States Court of Federal Claims' website in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). **This means the decision will be available to anyone with access to the internet.** In accordance with Vaccine Rule 18(b), Petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will redact such material from public access.

<sup>2</sup> National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all “§” references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

compensation (“Proffer”) indicating Petitioner should be awarded \$87,500.00 for pain and suffering. Proffer at 1. In the Proffer, Respondent represented that Petitioner agrees with the proffered award. *Id.* Based on the record as a whole, I find that Petitioner is entitled to an award as stated in the Proffer.

Pursuant to the terms stated in the attached Proffer, **I award Petitioner a lump sum payment of \$87,500.00 in the form of a check payable to Petitioner.** This amount represents compensation for all damages that would be available under § 15(a).

The clerk of the court is directed to enter judgment in accordance with this decision.<sup>3</sup>

**IT IS SO ORDERED.**

**s/Brian H. Corcoran**  
Brian H. Corcoran  
Chief Special Master

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<sup>3</sup> Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by the parties’ joint filing of notice renouncing the right to seek review.

**IN THE UNITED STATES COURT OF FEDERAL CLAIMS  
OFFICE OF SPECIAL MASTERS**

EVON JOHNSON,

Petitioner,

V.

SECRETARY OF HEALTH AND HUMAN  
SERVICES,

Respondent.

No. 19-1117V

Chief Special Master Corcoran  
ECF

**RESPONDENT'S PROFFER ON AWARD OF COMPENSATION**

On July 31, 2019, Evon Johnson (“petitioner”) filed a petition for compensation under the National Childhood Vaccine Injury Act of 1986, 42 U.S.C. §§ 300aa-1 to -34 (“Vaccine Act” or “Act”), alleging that she suffered from a “Shoulder Injury Related to Vaccine Administration (SIRVA), an ‘on-the-table’ injury, within the requisite time period set forth in the Table (a ‘Table’ injury)” as a result of a flu vaccine she received on November 5, 2018. Petition at 1. On January 25, 2021, the Secretary of Health and Human Services (“respondent”) filed a Rule 4(c) Report recommending that compensation be awarded, and the Chief Special Master issued a Ruling on Entitlement finding petitioner entitled to compensation the same day. ECF No. 27; ECF No. 28.

## **I. Items of Compensation**

### A. Pain and Suffering

Respondent proffers that petitioner should be awarded \$87,500.00 in actual pain and suffering. Petitioner agrees.

This amount represents all elements of compensation to which petitioner is entitled under 42 U.S.C. § 300aa-15(a). Petitioner agrees.

**II. Form of the Award**

Petitioner is a competent adult. Evidence of guardianship is not required in this case. Respondent recommends that the compensation provided to petitioner should be made through a lump sum payment as described below and requests that the Chief Special Master's decision and the Court's judgment award the following<sup>1</sup>: a lump sum payment of \$87,500.00, representing compensation for pain and suffering, in the form of a check payable to petitioner, Evon Johnson.

**III. Summary of Recommended Payments Following Judgment**

Lump sum payable to petitioner, Evon Johnson:	<b>\$ 87,500.00</b>
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Respectfully submitted,

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Acting Assistant Attorney General

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Acting Director  
Torts Branch, Civil Division

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Acting Deputy Director  
Torts Branch, Civil Division

ALEXIS B. BABCOCK  
Assistant Director  
Torts Branch, Civil Division

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<sup>1</sup> Should petitioner die prior to entry of judgment, the parties reserve the right to move the Court for appropriate relief. In particular, respondent would oppose any award for future lost earnings and future pain and suffering.

s/ Sarah C. Duncan  
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DATED: March 4, 2021